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March 27, 2015

The Honorable William F. Galvin
Secretary of the Commonwealth of Massachusetts
Regulations Division
State House, Room 117
Boston, MA 02133

RE: Proposed Regulation 940 C.M.R. 32.00

Dear Secretary Galvin:

Pursuant to G.L. c. 30A, § 2, agencies promulgating new regulations must submit a Small Business Impact Statement ("Statement") for inclusion with the record of the regulations. Our office submits the following Statement for 940 C.M.R. 32.00: Domestic Workers Bill of Rights.

Proposed 940 C.M.R. 32.00 is mandated by M.G.L. c. 149, § 190. The regulation outlines the rights of domestic workers, persons who are paid to provide housekeeping, childcare and other caretaking services in private homes. The regulation clarifies the obligations of employers, and outlines the authority of the Office of the Attorney General ("Office") to investigate violations.

1. Estimate the number of small businesses subject to the proposed regulation.

Domestic workers provide the work that makes others able to work at their own jobs. The proposed regulation provides a uniform and fair regulation of the domestic worker relationship, addressing disputes or unexpected gaps in child care or household responsibilities that would potentially increase worker absenteeism.

The Office has identified industries in Massachusetts that may be affected by proposed 940 CMR 32.00. The Office relies on the North American Industry Classification Systems (NAICS) standards in making this assessment. The affected industries, with their NAICS codes: Janitorial Services (561720), Home Health Care Services (621610), Services for the Elderly and Persons with Disabilities (624120) and Child Day Care Services (624410).

According to the United States Small Business Administration (SBA) there are 119 businesses in Massachusetts that have less than 500 employees and are engaged in Janitorial Services (561720), Home Health Care Services (621610), Services for the Elderly and Persons with Disabilities (624120) and Child Day Care Services (624410).

The definition of employer in M.G.L. c. 149, § 190 and 940 CMR 32.00 will include private households who pay domestic workers, but do not otherwise hold themselves out as employers or small businesses. The Office does not have sufficient information to calculate the number of entities in Massachusetts, outside the industries identified above, that employ domestic workers.

2. What are the projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation?

The proposed regulation requires employers to keep a record of wages and hours, provide a domestic worker with a time sheet and provide a domestic worker with a notice that contains all applicable laws that apply to the employment of domestic workers and to maintain these records for three years.

3. Detail the appropriateness of performance standards versus design standards.

Neither performance standards nor design standards are applicable to the proposed regulatory changes.

4. Identify the regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation.

The Attorney General's Office is the sole agency that promulgates regulations regarding the domestic workers' law. The proposed regulation incorporates references to public health regulations in 105 C.M.R. 410 and minimum wage regulations at 455 C.M.R. 2.04, but does not duplicate or conflict with those existing regulations.

5. Analyze whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth.

These Regulations are unlikely to deter or encourage the formation of new businesses in the Commonwealth.

I submit this Small Business Impact Statement on behalf of the Attorney General pursuant to the requirements of G.L. c. 30A, § 2.

Sincerely,

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